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4 **UNITED STATES DISTRICT COURT**
5 **NORTHERN DISTRICT OF CALIFORNIA**
6 **SAN JOSE DIVISION**
7

8 IGLESIA NI CRISTO,
9 Plaintiff,

10 v.

11 LUISITO E CAYABYAB, et al.,
12 Defendants.

Case No. 18-cv-00561-BLF

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
ADMINISTRATIVE MOTION FOR
LEAVE TO FILE A SUR-REPLY**

[Re: ECF 130]

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14 Briefing on Defendants' motion for summary judgment was completed on February 10,
15 2020, when Defendants filed their reply brief. The motion is set for hearing on February 27, 2020.

16 On February 13, 2020, Plaintiff filed an administrative motion for leave to file a sur-reply.
17 Plaintiff asserts that a sur-reply is warranted because the Declaration of Restituto S. Lazaro was
18 inadvertently omitted from Plaintiff's opposition, and Plaintiffs wish to respond to Defendants'
19 "evidentiary objections" and "misstatements of fact." *See* Admin. Motion at 2, ECF 130. Plaintiff
20 attaches a proposed sur-reply brief that is ten pages in length. *See* Admin Motion Exh. A.

21 On February 14, 2020, Defendants filed a "limited opposition" to Plaintiff's administrative
22 motion. Defendants state that they do not oppose Plaintiff's request to belatedly file the
23 Declaration of Restituto S. Lazaro, as that declaration was omitted from Plaintiff's opposition due
24 to inadvertence. However, Defendants argue that Plaintiff has not provided a legitimate basis for
25 seeking leave to present additional written argument to the Court. Defendants point out that
26 ordinarily, material may be filed after the reply in only two circumstances. *See* Civ. L.R. 7-3(d).
27 First, when new evidence is submitted in the reply, the opposing party may file an objection to
28 reply evidence, not to exceed five pages of text. *See id.* Second, counsel may bring to the Court's

1 attention a relevant judicial opinion published after the reply was filed. *See id.* Plaintiff's request
2 for leave to file a sur-reply does not fall into either of these categories.

3 Plaintiff's administrative is GRANTED with respect to Plaintiff's request to file the
4 inadvertently omitted Declaration of Restituto S. Lazaro and otherwise is DENIED. This Court's
5 Civil Local Rules do not contemplate the filing of a sur-reply simply for the purpose of responding
6 to reply arguments. Plaintiff has not shown an adequate basis for deviation from the normal
7 briefing practice that gives the moving party the last word.

8 This order terminates ECF 130.

9 **IT IS SO ORDERED.**

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11 Dated: February 19, 2020



BETH LABSON FREEMAN
United States District Judge